

A boat dealer selling a boat to an out-of-state customer picking up the boat in Illinois is subject to tax. See 86 Ill. Adm. Code 130.605 (This is a GIL.)

February 17, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated April 1, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I live in Indiana and bought a boat and trailer from COMPANY, on March 10, 1998. Illinois charged me sales tax for the boat and trailer. When I went to register and plate it in Indiana, they said I would have to pay Indiana sales tax. I told them I already paid in Illinois and they said Illinois shouldn't have charged me sales tax. That I would have to pay it in Indiana. So that means I have to pay sales tax twice? Something is not right here.

My wife called the Illinois License Bureau (217-782-6212) and talked to Kim. Kim said I shouldn't have paid the sales tax in Illinois if I'm going to pay it in Indiana. She gave my wife your address and said to write to you to get this taken care of. I truly believe I am due a refund of sales tax from Illinois. COMPANY is giving me nothing but the run-around. Could you please help me in this matter? I would greatly appreciate it. Thanking you in advance for your help.

For general information purposes, we are enclosing a copy of 86 Ill. Adm. Code 130.605 which sets out the interstate commerce exemption from Illinois sales tax.

The interstate commerce exemption is available to sales in which the Illinois seller is obligated to make delivery and does make delivery of tangible personal property to a location outside Illinois and the item is not to be returned to Illinois. See Section 130.605(b). However, please note that where the purchaser takes delivery in Illinois, the sale is taxable and this is true even though the purchaser will immediately remove the item from Illinois. See Section 130.605(a).

There is an exception for motor vehicles sold to out-of-state residents who take delivery in Illinois but who will not title the vehicle in Illinois, if the

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seller issues a driveaway decal or if the out-of-state resident has out-of-state vehicle registration plates to transfer to the vehicle. See Section 130.605(a)(4)(A). Based upon the facts presented in your letter and the supporting documentation submitted, it does not appear that this exemption was documented. Therefore, sales tax was properly due.

If sales tax is properly due and paid in Illinois, it is possible that Indiana will allow a credit for the amount paid. However, we are unable to provide guidance regarding Indiana law.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk
Enc.